

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

vs

LUIS PONS-PAGAN, a/k/a "Pili"

Defendant

CRIMINAL 14-0189CCC

ORDER

Having considered the Motion to Suppress filed by defendant Luis Pons-Pagán (**d.e. 29**), the United States' Opposition (**d.e. 43**), the U.S. Magistrate-Judge's Report and Recommendation (**d.e. 48**) and defendant's Objections to the Report and Recommendation (**d.e. 52**), as well as the relevant case law, said Report and recommendation is APPROVED and ADOPTED and defendant's Motion to Suppress is DENIED.

While defendant sought suppression of two firearms and ammunition found in his vehicle claiming that the consent he gave to search his vehicle was obtained by law enforcement agents prior to being Mirandized, the U.S. Magistrate-Judge aptly concluded, as repeatedly held by case law, that a consent to search is not considered a self-incriminating statement and does not require prior Miranda warnings. See e.g. United States v. Saenz, 474 F. 3d 1132, 1137 (8th Cir. 2007); United States v. McCurdy, 40 F.3d 1111 (10th Cir. 1994); United States v. Hidalgo, 7 F.3d 1566, 1568 (11th Cir. 1993); United States v. Smith, 3 F.3d 1088, 1098 (7th Cir. 1993), cert. denied, 510 U.S. 1061, 114 S.Ct. 733, 126 L.Ed. 2d 696 (1994); Cody v. Solem, 755 F.2d 1323, 1330 (8th Cir. 1985), cert. denied, 474 U.S. 833, 106 S.Ct. 104, 88 L.Ed. 2d 84 (1985). In any event, as the Magistrate-Judge also correctly

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observed, the firearms and ammunition would have been inevitably discovered by the customary inventory search of the vehicle which would have followed its impoundment. See United States v. Infante-Ruiz, 13 F.3d 498, 503 (1st Cir. 1994).

The parties are GRANTED until **JUNE 6, 2016** to conclude plea negotiations and, if these are successful, defendant is allowed until **JUNE 16, 2016** to file a change of plea motion. The jury trial is RESET for **JULY 8, 2016** at **9:30 AM**.

Defendant's Motion Requesting Order (**d.e. 55**) is DENIED. His Informative Motion (**d.e. 56**) is NOTED.

SO ORDERED.

At San Juan, Puerto Rico, on May 2, 2016.

S/CARMEN CONSUELO CEREZO
United States District Judge